ANNEXURE – A

JUDICIAL RESPONSE TO VICTIMS OF CUSTODIAL RAPE: CRIMINAL JUSTICE OF INDIA AND VICTIMOLOGICAL APPROACH

Submitted by

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Under the Guidance of

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Faculty of Law

In Partial Fulfillment of the Requirements

for the Award of Degree of

DOCTOR OF PHILOSOPHY

Estd. in 2008

बेटी बचाओ, बेटी पढ़ाओ

Jayoti Vidyapeeth Women's University, Jaipur

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ANNEXURE – B

DECLARATION

I. I, **POOJA SHARMA** hereby declare that all the statement made in this application are true, complete and correct to the best of my knowledge and belief and in the event of any information being found false or incorrect or any ineligibility being detected before or after the registration for Ph.D. My candidature is liable to be cancelled and legal action may beinitiated against me.

II. I have deposited the required fee, as notified by the University regularly.

III. I have noted that if my application is found incomplete / defective, the same is liable to be rejected summarily and no correspondence will be entertained in this regard.

IV. I have read and agree with the University Revised Ph.D. Ordinance No. 14 and UGC Regulation – 2009, and all the Amened Regulations or newly passed Regulations by the UGC on or before below mentioneddate.

Place: JAIPUR

Date:

(Signature of the Applicant)

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1. Introduction:-

Having sexual intercross with any person without her permission is called rape. This is a illegal act. That is called offence. If rape is committed by more than one person then it is called gang rape. Rape is a type of unlawful act, which sexual intercourse is committed against the victim usually without the victim's consent and out of fear of fraud. Rape is when a man has forced sexual intercourse with a woman against her will and without her consent. It's a crime and violation against her body. A woman who is raped suffers physical trauma and emotional trauma, and unfortunately she is often blamed for provoking the crime. Rape occurs because of society's attitudes and perceptions towards women where women are treated as sexual objects while men have the right to behave as they wish. No one deserves to be raped or sexually assaulted. A woman should not be blamed for being raped. The word "rape" comes from the Latin word "rapio" meaning "to seize". Hence, the act of commission of rape is the seizure by commission. To understand the concept of custodial rape it is necessary to understand what the terms 'custody' and 'custodian' are. Someone can be said to be under 'custody' if that person is under the complete control, strict supervision and care of a person or entity known as the 'custodian'.' Hence, in furtherance of this, we define custodial rape as the type of rape that occurs when rape is performed as an activity by someone who is in a custodial position; like a public servant, jail, police officer, or hospital employee. The term custodial rape also includes rape, gang rape and rape of a pregnant woman. Rape is a crime against the whole civilization. But rapists have all sorts of justifications for their actions. Women are not an object of pleasure. Due to Due to modernization, negligence, and reduce of education women is not safe in our country. These are the factors which are influencing the mentality of people. It has such an impact on the thought process of the youth that everyone becomes disturbed.

2. Research Aims and Object:-

Custodial rape occurs when rape is committed by a man who has custody of the woman. The men who have custody of the woman are usually in very strong and powerful positions. If they misuse their position to sexually exploit women, it is a very serious offence. If a person rapes a woman in his custody then who can be punished for custodial rape?

- Policeman;
- Public servants;

- Manager or staff of jail, remand home or hospital.

Analysis of case laws:-

How can effort for remove this offence:-

- International standards must be followed.
- Constitute of Separate Courts.
- Implementation of human rights courts
- Appointment of female in several sectors e.g- Hospitals, Police Station, Courts, Remand home, Jail.
- Strict rules should be developed.
- The prison system should be updated.
- Distribution of work.
- Knowledge of advertising is essential. In the community > · Rules and regulations should be established regarding advertising and videos.Proper rules and regulations should be made for media and cinema.
- Reforms of statutes.
- Usage of technology.
- Installing cameras in police station.
- False allegation
- Other ways for removing this offence.

Reason for increasing of crime:-

There are many reasons for the increase in incidents of harassment related to surveillance and justice system in our country. Here are some of them-

- Not follow international standards-
- Lack of stringent laws.
- Lack of prison reforms.
- Pressure of Work.
- Social factors.
- Misinterpretation.
- Lack of sex education.
- Media and cinema.
- Other factors.

3. Review literature:-

- **Code of Indian Penal, 1860 (IPC)** this is a codified law related to Crime

And book of Code of Indian Penal, 1860 of author Dr. N.V. Paranjape. This book is a summary of the most essential cases, in law of Indian Penal This book is not a text book, but useful for the Law students to read with the text book.

- **Code of Criminal Procedure, 1973 (Cr.P.C)** this is a codified law related to Proceeding of IPC-

And book of Code of Criminal Procedure, 1973 author Surya Narayan Mishra. This book is a summary of the important cases, in law of criminal procedure. The author took a reference from English and Indian decisions and extracts from the Judgments are set out to illustrate the principles of the subject.

- **Indian Evidence Act, 1872.**

And book of Indian Evidence Law of author Dr. Avtar Singh. This book is a summary of the important cases, in law of evidence. This book is an introduction and study of the principles of Law of Evidence. The author in this book admires the success of the Act for more than a century. Still some provision may be redundant and so to be removed or some suggestions to provide some new material in the act, to be introduced according to the author. The author has put down all current updates in his book which is helpful for the research.

- **The Criminal Law (Amendment) Act, 2013.**

It was passed after the Nirbhaya case in which a female student was gang-raped in December 2012. This Act amended several provisions of the Indian Penal Code, the Indian Evidence Act and the Code of Criminal Procedure.

- **The Criminal Law (Amendment) Act, 2018.**

The Act amended various provisions of the Indian Penal Code, Indian Evidence Act, and The Code of Criminal Procedure. Notably, the Act increased the minimum punishment for rape from seven years to ten years of rigorous imprisonment which is extendable to life imprisonment.

- **Indecent Representation of Women (Prohibition) Act, 1986 (IRW).**

An Act to prohibit indecent representation of women through advertisements or in publications, writings, paintings, figures or in any other manner and for matters connected therewith or incidental thereto.

- **Protection of Children from Sexual Offenses Act, 2012 (POCSO).**

An Act to protect children from offences of sexual assault, sexual harassment and pornography and provide for establishment of Special Courts for trial of such offences and for matters connected therewith or incidental thereto.

- **The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.**

An Act to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto.

- **Constitution of India.**

Article-14, Article-15, Article-16, Article-21, Article-23, Article-38

- **Law Commission of India 172nd Report - Review of Rape Law Government of India, 2000,**
- **The Malimath Committee Report on Reforms of Criminal Justice System 2003**

4. Research Methodology & Materials:-

With the advent of science in every field there is a necessity to examine the expert knowledge in witnessing. For this research the method primarily used is doctrinal method. Print material is the primary form of instructional material. There are 2 types of materials that have to be reviewed.

1. The literature concerning the concepts & theories
2. Empirical literature consisting of studies made earlier.

The research will be carried on through the doctrinal research by following the various approaches in it.

i. Historical process
ii. Evaluation process
iii. Legislative process and its analysis
iv. Collative process

The present research will be done on the basis of the text books, articles published, judgments, various reports of the committees and commissions, law journals, legislations in India and the legislations in other countries and news paper articles.

5. Conclusion:-

Custodial rape is probably the worst stigma a woman can face, it is worse than murder, especially in a developing country like ours. However, when it is done by someone we trust and rely on to protect us and our rights, it becomes even worse. Custodial infringement has been a major human rights issue in India for decades. This is one of the most important reasons hindering democracy and human development.

Even though amendments have been brought by the Parliament on rape laws in the country, there are many judgments like the Mathura rape case which have still not been successful in providing justice to the victims of such a condemnable activity.

India still needs several amendments in the law to provide justice in custodial rape cases and eliminate the issue of custodial rape. We need amendments to existing laws as well as stronger laws to make it easier and hassle-free for women or aggrieved parties to file complaints. Moreover, even though the punishment for custodial rape under Section 376 of the IPC is 10 years, most rapists get a sentence of three to four years.

Furthermore, victims are afraid to report incidents of custodial rape because they fear that rapists are in power and that their lives may be in danger if they raise their voice against a public servant. Additionally, even if they file a complaint, the evidence remains with the public servants, and they can easily destroy, edit, or modify it. Additionally, the number of custodial rape cases is low due to government pressure to underreport crime rate figures.

To curb the issue of custodial rape, it is important that preventive measures are taken and strict action is taken against rapists, irrespective of their status, power or authority, only then will the cases truly reduce in India.

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- https://pubmed.ncbi.nlm.nih.gov/12291816/;
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- Indian Penal Code 1860 Sec. 376 C.
- Indian Evidence Act 1872 Sec. 114A.

Part A: DETAILS OF THE CANDIDATE:

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2.	**Faculty**	LAW
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4.	**Subject / Specialization**	LAW
5.	**Topic**	JUDICIAL RESPONSE TO VICTIMS OF CUSTODIAL RAPE: CRIMINAL JUSTICE OF INDIA AND VICTIMOLOGICAL APPROACH
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